

REMARKS

Claim 36-64 are pending.

In an Advisory Action mailed on January 31, 2008 and a final Office Action mailed October 3, 2007, the Examiner rejected claims 1-10, 12-20, 23-28, and 30-35 under 35 U.S.C. § 103(a) over a combination of Midwinter (U.S. Patent No. 6,668,288) and Cofano (U.S. Publication No. 2002-0059587). Applicants herein cancel claims 1-10, 12-20, 23-28, and 30-35, and add new claims 36-64 to more clearly identify the subject matter for which applicants seek protection. For reasons discussed in detail below, applicants submit that the pending claims are now in condition for allowance.

A. Midwinter

Midwinter describes a technique for establishing a data conference between participants connected through an external network, participants connected through a PSTN, and participants connected through an intranet. (Col. 4, lines 26-37). When a conference is created, Midwinter's conference server sends the details of the conference (conference identifier and password) to external data servers. (Figure 3; Col. 5, lines 22-24, 28-49). Participants join the conference by sending a request (including the correct conference identifier and password) to an external data server. (Figure 3; Col. 5, lines 50-54).

B. Cofano

Cofano describes a technique for providing personalized services by establishing a videoconference between a user and a service provider (e.g., healthcare provider). (Abstract; ¶0055; ¶0068.) For example, a user can login to Cofano's system to schedule a "virtual office visit" with his or her physician at a specific time. (¶0081; ¶0075.) Cofano explains that "after the patient has connected to the server unit 500 for his service session [i.e., virtual office visit]," the patient may "receive a message that the doctor will be with him shortly." (¶0083; ¶0098.) Cofano further explains that the patient is listed in "a waiting room window [that] is displayed [on the doctor's computer]"

and lists "all patients waiting for service." (¶0098.) Finally, "[w]hen the doctor is available," the system "connects the videoconference." (¶0084.)

C. The References Cited by the Examiner Fail to Teach or Suggest "A Lobby To Which Potential Participating Computing Systems In An External Network Are Admitted Awaiting Authorization To Join The Data Conference" As Recited By All Of The Pending Claims

In the Advisory Action mailed on January 31, 2008, the Examiner acknowledges that the combination of Midwinter and Cofano fails to disclose "a lobby to which potential participating computing systems in an external network are admitted awaiting authorization to join the data conference." Specifically, the Examiner states:

[T]he combined teachings disclosed a conferencing system having there in a virtual waiting room (i.e., a virtual lobby) where participating communication nodes/users are admitted to the virtual waiting area waiting to engage on a virtual conference session.

The Examiner appears to suggest that merely waiting for another conference participant to join a conference is the same as "awaiting authorization to join a data conference," as recited. The Examiner is mistaken. Cofano's discussion at ¶0083-0084 describes nothing similar to applicants' lobby.

In contrast to the claimed approach, none of the patients in Cofano's waiting room are awaiting authorization. Rather, each patient has joined his or her scheduled videoconference and is simply waiting for the doctor to join. (¶0098: "after the patient has connected to the server unit 500 for his service session," the patient is listed in "a waiting room window...in which all patients waiting for service are listed.") Cofano's waiting room is clearly nothing more than a list of videoconferences to which the doctor may join. Unlike techniques of Midwinter and Cofano, applicants' technology will not join a participant to a data conference merely upon the receipt of a correct conference identifier and password or user login. Instead, applicants' technology establishes a

lobby to which potential participants are admitted awaiting authorization to join a data conference.

Because the cited references do not describe anything similar to applicants' lobby, they also fails to teach or suggest the act of "admitting the of the potential participating computing systems to the lobby" as recited by new independent claims 36, 45, and 55. The Examiner relied on Figure 3, #114 of Midwinter to provide this feature, even though the Examiner acknowledges that Figure 3, #144 of Midwinter "join[s] participants to the data conference," not a "lobby." (Office Action, p. 3; emphasis added).

In addition, new claims 60-64 recite "receiving by the computing system in the external network an indication that it has successfully been admitted to a lobby." In the Office Action mailed on October 3, 2007, the Examiner did not mention this element in his rejection of claims 23-28 (now canceled), which recited similar language. However, in the Office Action mailed on April 4, 2007, the Examiner relied on column 4, lines 26-65 of Midwinter to provide this element (*Id.*, p. 5). As discussed in the response that applicants submitted on July 5, 2007, this section of Midwinter describes how an organizer sends a request to the reservation system to establish a data conference and says nothing about notifying or indicating when a potential participant has been admitted to a lobby.

In addition, the Examiner has failed to identify a sufficient reason for combining Midwinter and Cofano. To present a *prima facie* case of obviousness, the Examiner must show that "there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue." *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 14 (U.S. Apr. 30, 2007; emphasis added). The Examiner's analysis "should be made explicit. *Id.* "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some

rational underpinning to support the legal conclusion of obviousness." *Id.* (citing *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006)).

In the Advisory Action mailed on January 31, 2008, the Examiner contends that "alleging that there is no reason to combine the references is not persuasive." The Examiner argues that

[The] references are unquestionably analogues...and therefore the motivation recited in the last office action is at least one adequate reason/motivation for the combination of Midwinter and Cofano.

In the last Office Action, the Examiner stated the following as the reason to combine Midwinter and Cofano:

[I]t would have been obvious...to take the teachings of Cofano related to a virtual waiting room (a virtual lobby) and have modified the teachings of Midwinter, because such a modification would allow users to take advantage of a virtual office visit via media conferences without the actual time it takes to have a traditional office visit (see Cofano, Page 7, ¶0081 and Page 8, ¶0084-0085).

(Office Action, Oct. 3, 2007, p. 5; emphasis added.) Applicants again respectfully disagree. The Examiner reason provided by the Examiner does not in any way relate to the use of a virtual waiting room. Moreover, Midwinter already provides data conferencing that could be used by a healthcare provider and a patient to participate in a virtual office visit. So, Midwinter already has the "advantage of a virtual office visit" that the Examiner suggests would motivate one to combine them. Thus, one would have no reason to combine Midwinter and Cofano to achieve this advantage because the advantage could be provided without the use of a virtual waiting room.

D. Conclusion

For at least the reasons discussed above, it is clear that the cited references neither teach nor suggest all of the elements of the pending claims. Therefore, based upon these remarks and amendments, applicants respectfully request reconsideration

of this application and its early allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-8077.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 418268880US from which the undersigned is authorized to draw.

Dated: April 3, 2008

Respectfully submitted,

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